

REMARKS

The drawings are first amended, per the attached Submission, to overcome a few noted informalities contained therein. New Replacement Sheets of formal drawing(s), accompany this Submission, incorporate all of the requested drawing amendment(s). If any further amendment to the drawings is believed necessary, the Examiner is invited to contact the undersigned representative of the Applicant to discuss the same.

The above amended paragraphs of the specification now provide consistence with the entered drawing amendments. The undersigned avers that the amended paragraphs of the specification do not contain any new subject matter.

Claim 7 is then objected to for the reasons noted in the official action. The above requested claim cancellations and newly entered claims are believed to overcome all of the raised informalities concerning the claims. If any further amendment to the claims is believed necessary, the Examiner is invited to contact the undersigned representative of the Applicant to discuss the same.

Next, claims 7-12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The rejected claims are accordingly revised and written as new claims 13-25, by the above claim amendments, and all of the presently pending claims are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections. The entered claim amendments are directed solely at overcoming the raised indefiniteness rejections and are not directed at distinguishing the present invention from the art of record in this case.

Claims 7 and 10 are rejected, under 35 U.S.C. § 102, as being anticipated in view of Huber 20030015050 (Huber `050). The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

Huber `050 relates to a power shift reversing gearbox and includes an input shaft 3, an output shaft 23 and five counter shafts 5, 6, 7, 8, 9 each having a counter shaft unit. The counter shaft units of the five counter shafts 5, 6, 7, 8, 9 engage with one another and the input and output shafts 3, 23 in a different configuration and arrangement from the presently claimed invention. The arrangement and engagement of the counter shafts, as specifically

taught and disclosed by Huber `050, is quite different than that of the present application. In particular, as can be seen in the FIGS. 2-4 of Huber `050, the drive shaft 3 engages with the units of at least three other counter shafts, namely, unit K4 of the counter shaft 9, unit KV of the counter shaft 6 and unit KR of the counter shaft 5. In addition, all of the counter shafts 5, 6, 7, 8, 9 engage, via their counter shaft unit, at least two other shafts of the input 3, output 23 and the counter shafts 5, 6, 7, 8, 9. This arrangement is vastly different from the limitations of the pending claims. The Applicant asserts that none of the applied references in any way teach, suggest, disclose or hint at the lay out and engagement of the power shift transmission as presently claimed.

As a further distinction, it is noted that Huber `050 does not teach a shaft having first and second fixed gear wheels that is only directly drivingly engagable with the gear unit of the drive shaft 3, via the second fixed gear wheel 20', and the gear unit of the first counter shaft 5, via the first fixed gear wheel 20.

As shown in FIGS. 8 and 9 of the pending application and as now clarified in the newly entered claims, the drive shaft 3 of the inventive power shift transmission only drivingly engages with two counter shafts, namely, counter shaft 5 and counter shaft 17—not three units/shafts as specifically disclosed and taught by Huber `050. Further, the hollow shaft 3 of Huber `050 only supports a fixed gear 4 and thus it is respectfully submitted that Huber `050 does not in any way teach, suggest, disclose or hint at a drive shaft 3 having a gear unit comprising at least one fixed gear wheel, an idler gear wheel and a shift clutch for coupling the idler gear wheel to the drive shaft 3, as presently claimed. In addition, the drive shaft 4 only drivingly engages a single shaft, namely, the counter shaft 6 and such arrangement is clearly not taught, suggested, disclosed or in any way hinted at by Huber `050.

Lastly, as recited in new claim 20, the PTO (auxiliary drive 16) is accommodated within the drive shaft 3 and not off a hollow shaft 30 surrounding the drive shaft as specifically disclosed and taught by Huber `050.

Claims 8 and 12 are then rejected, under 35 U.S.C. § 103(a), as being unpatentable over Huber `050 as applied to claim 7 and further in view of Lamela `399 while claim 9 is rejected, under 35 U.S.C. § 103(a), as being unpatentable over Huber `050, as applied to claim 7, and further in view of McAskill `475. In addition claim 11 is rejected, under 35 U.S.C.

§ 103, as being unpatentable over Huber `050 in view of admitted prior art in the specification page 4, paragraph [019] (admitted prior art). The Applicant acknowledges and respectfully traverses all of these additional raised obviousness rejections in view of the above amendments and the following remarks.

The Applicant acknowledges that the additional references of Lamela `399, McAskill `475 and the admitted prior art may arguably relate to the features indicated by the Examiner in the official action. Nevertheless, the Applicant respectfully submits that the combination of the base reference of Huber `050 with this additional art of Lamela `399, McAskill `475 and/or the admitted prior art still fails to in any way teach, suggest or disclose the above distinguishing features of the presently claimed invention. As such, in light of the above amendments and remarks, it is respectfully submitted that all of the raised rejections in view of Huber `050, Lamela `399, McAskill `475 and/or the admitted prior art should be withdrawn at this time.

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, each of the independent claims 13 and 20 of this application now recite the inventive feature of “the gear unit of the drive shaft (3) is only directly drivingly engagable with a component of the gear unit of the first counter shaft (5) and a component of the gear unit of the third counter shaft (17); the gear unit of the first counter shaft (5) is only directly drivingly engagable with a component of the gear unit of the drive shaft (3), a component of the gear unit of the third counter shaft (17) and a component of the gear unit of the second counter shaft (6); the gear unit of the second counter shaft (6) is only directly drivingly engagable with a component of the gear unit of the first counter shaft (5) and a component of the gear unit of the output shaft (4); the gear unit of the third counter shaft (17) is only directly drivingly engagable with a component of the gear unit of the drive shaft (3) and a component of the gear unit of the first counter shaft (5); and the gear unit of the output shaft (4) is directly drivingly engagable with at least a component of the gear unit of the second counter shaft (6).” Further, new independent claim 20 recites the features of a “multi-geared power shift transmission of a telescopic handler and

an excavator loader . . . and an auxiliary drive (16), for driving additional equipment, extends within and through the drive shaft (3)".

Lastly, new independent claim 25 recites the features of "the gear unit of the drive shaft (3) is only directly drivingly engagable with a component of the gear unit of the first counter shaft (5, 6, 7) and a component of the gear unit of the subsequent counter shaft (17); the gear unit of the first counter shaft (5, 6, 7) is only directly drivingly engagable with a component of the gear unit of the drive shaft (3), a component of the gear unit of the subsequent counter shaft (17) and a component of the gear unit of the second counter shaft (5, 6, 7); the gear unit of the second counter shaft (5, 6, 7) is only directly drivingly engagable with a component of the gear unit of the first counter shaft (5, 6, 7) and a component of the gear unit of the output shaft (4); the gear unit of the subsequent counter shaft (17) is only directly drivingly engagable with a component of the gear unit of the drive shaft (3) and a component of the gear unit of the first counter shaft (5, 6, 7); and the gear unit of the output shaft (4) is directly drivingly engagable with at least a component of the gear unit of the second counter shaft (5, 6, 7)." Such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art.

Claims 7-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims 7-12 of co-pending U.S. Application No. 10/561,693. The Applicant acknowledges and respectfully traverses the raised double patenting rejection in view of the following remarks.

It is noted that the above identified application and the cited application both have an effective U.S. filing date of June 7, 2004 and thus both cases, absent any extension, will expire on the same day. In any event, once U.S. Application No. 10/561,693 is allowed, the Applicant will prepare and submit a Terminal Disclaimer, in the above identified application, which disclaims the terminal part of any patent issuing on the above identified application.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

10/562,029

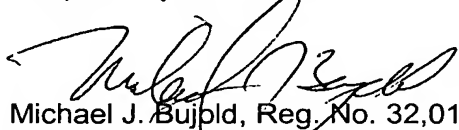
In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejections should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejections or applicability of the Huber `050, Lamela `399, McAskill `475 and/or the admitted prior art references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



Michael J. Bujold, Reg. No. 32,018

Customer No. 020210

Davis Bujold & Daniels, P.L.L.C.

112 Pleasant Street

Concord, NH 03301-2931

Telephone 603-226-7490

Facsimile 603-226-7499

E-mail: patent@davisandbujold.com



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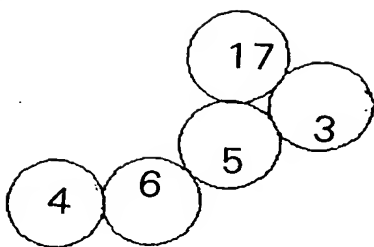


FIG. 8A

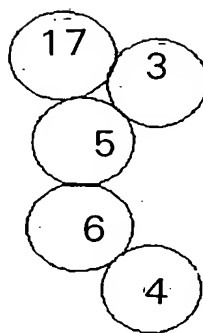


FIG. 8B

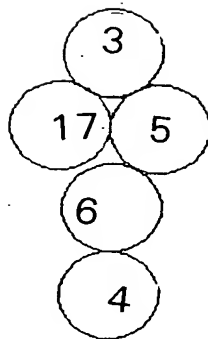


FIG. 8C

~~Fig. 8~~

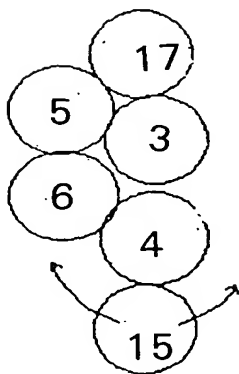


FIG. 9A

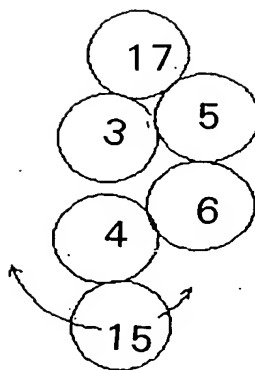


FIG. 9B

~~Fig. 9~~